40. Hardships caused to the Public from the Civil Courts and remedies therefor.

MR. NARAYANARU KRISHNARU (*Member, Jenmies, Trivandrum Division*) made the following suggestions to remove the hardships caused to the public on account of the existing working of the Judicial Department:—

(1) The plaintiff should be asked to file additional copies of the plaint for sending to defendants. Some courts observed that rule but others did not. All courts should insist on its being done.

(2) There was a wide difference between the actual market rates and the *nirak* rates prepared by the Taluk authorities. Steps should be taken to avoid such difference.

(3) If the defendants had not accepted summons before 14 days of the trial in the case of civil suits and before 7 days in the case of small cause suits, the cases should be adjourned, without application, for filing written statements.

(4) Issues should be framed within one week after filing written statements. If issues need not be framed, the case should be decided within 3 weeks after letting in the necessary evidence.

(5) The attendance of witnesses summoned should be taken every day. After retaining such of them as could be examined, the others should be allowed to leave the court.

(6) First class *batta* and mileage should be allowed to commissioners. The court should have the power of appointing commissioners. Commission orders should be issued to the Agricultural Department for reporting about trees and crops on lands, to the P. W. Department in regard to buildings and to the *Provertikars* in the matter of surveying lands. In all other cases, the appointment should be left to the discretion of the court.

(7) Unregistered documents produced in courts were sometimes lost and even corrections occasionally made in some documents so produced. That was a source of hardship to the parties. They should therefore be allowed to produce copies of unregistered documents attested in the manner directed by the courts. The originals need be produced only if and when necessary.

(8) In view to facilitate the preparation of decrees and prevent double payments, the parties should be enabled to produce duplicate lists of payments made by them, which should be attested by the Head Clerk of the court.

(9) In cases relating to *tiruppuvaram*, production of copies of *chittas* of properties on which the *varam* was charged should not be insisted on but the Settlement Register of the *pakuthi*, kept in the court, should be referred to.

(10) *Jenmies'* dues being the next charge after Government revenue on a *jenmom* land, the Sub-Registrar's certificate of encumbrance should not be insisted on in cases of auction of land for the recovery of dues.

(11) For the convenience of the judges and the parties, it should be ruled that it would be enough if notes were produced for purposes of hearing.

(12) The rule requiring each Munsiff to dispose of 40 contested cases in a month should be changed. It would be enough if 25 such cases were finished. The change would enable a Munsiff to enter into the merits of the case in detail and would do away with the necessity for appeal, remand or revision.

(13) Calendar revision and vakil's fee should be allowed in respect of small cause suits.

(14) Judgments should be pronounced, on a day to be specified, within one or two weeks after the hearing was over.

(15) A small fee should be charged for certificates given by vakils in token of having received their fee so that inadvertent losses of such certificates may be prevented.

(16) Office copies of judgments should be prepared promptly and in chronological order.

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(17) Production of copies of judgments by parties should not be insisted on for preparing decrees, as the court copies could be referred to. For mistakes in a decree, the clerk preparing it should be held responsible.

(18) Copies of records applied for should be promptly given after the usual notices for production of copying sheets.

(19) Original documents produced in *ex-parte* cases should be destroyed only after the claims were barred by limitation.

(20) Encumbrance certificates should be done away with. If deemed necessary, such certificates should be prepared by a responsible clerk.

(21) Execution processes should be issued the day after application for execution.

(22) *Chellans* for deposit of decree amounts should be issued the day after application and Munsiffs should enquire into causes of delay. Cheques should be prepared in triplicate as of old.

(23) *Amins* who do not carry out eviction orders should be given exemplary punishments.

The member then referred to corrupt practices among *amins*.

DEWAN : Has any *amin* received money from the parties.

The member said it was not a difficult matter to prove. *Amins* freely received money from the parties and they freely asked for money. In cases where money was refused, the parties had to go to the High Court to carry on eviction proceedings. If a High Court Judge were present, the member said he could have represented his grievances. An officer drawing a salary of Rs. 500 had once told him that an *amin* demanded Rs. 15 from that officer.

DEWAN : Why was not that matter reported to the Government ? If you mention the name of the person, necessary steps will be taken.

The member said one had to go to the High Court to represent similar grievances. A party from Parur would find it difficult to go to Trivandrum to present a petition to the High Court. He would prefer the payment of Rs. 10 to the *amin* to a costly journey to Trivandrum. The member thought he could well complain even to the highest authority.

DEWAN : Your time is up.

MEMBER : Munsiffs should be recruited from among vakils.

DEWAN'S REPLY: If the member would choose any three subjects of his representation which he considers to be important and requires immediate remedy and forwards the same to the Chief Secretary, the Government will consider them.

41. Suggestions to avoid delay in the administration of Justice.

MR. SHAIK MAHOMED MOHIDEEN ALIM SAHIB SHAHUL HAMEED SAHIB (*Member, Nominated*) stated that he fully agreed with the suggestions made by Mr. R. Bhagavatiperumal Chettiyar in regard to examination of witnesses, issue of decrees, preparation of diaries, service of processes, preparation and issue of copies of records, production, inspection, custody and return of documents produced as exhibits and transfer of cases from one court to another. He supported also the suggestion that old cases should be disposed of soon and that it should be ruled that no case should be allowed to pend for more than three years. In view to enforce such a rule, the High Court should call for quarterly statements of pending cases from Munsiffs and District Judges and enquire into the causes of delay of cases pending for more than three years and deal severely with the officers responsible for the delay. If the presiding officer was responsible for the delay, his promotion should be barred. It was only by such exemplary punishments that speedy disposal of cases could be ensured.

Although he advocated speedy disposal of cases, he could not support the practice obtaining in Magistrates' Courts of hastening the disposal of cases towards the end of the "quarter months" in the year. Statistics would show that

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